UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
Criminal No. 16-257-11 (DWF/TNL)

UNITED STATES OF AMERICA,

Plaintiff,

v.

JOHN ZBARACKI,

Defendant.

PLEA AGREEMENT AND SENTENCING STIPULATIONS

The United States of America and defendant John Zbaracki (hereinafter referred to as the "defendant") agree to resolve this case on the terms and conditions that follow. This plea agreement binds only the defendant and the United States Attorney's Office for the District of Minnesota. This agreement does not bind any other United States Attorney's Office or any other federal or state agency.

1. **Charges.** The defendant agrees to plead guilty to Count 5 of the Indictment, which charges the defendant with Transportation to Engage in Prostitution, in violation of Title 18, United States Code, Section 2421, and Count 6 of the Indictment, which charges the defendant with Conspiracy to Engage in Money Laundering, in violation of Title 18, United States Code, Section 1956(h). The defendant fully understands the nature and elements of the crimes with which he has been charged. At the time of sentencing, the

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U.S. DISTRICT COURT ST. PAUL

government agrees to move to dismiss the remaining counts of the Indictment against the defendant.

2. **Factual Basis.** The defendant is pleading guilty because he is in fact guilty of Count 5 and Count 6 of the Indictment. In pleading guilty, the defendant admits the following facts and that those facts establish his guilt beyond a reasonable doubt and constitute relevant conduct pursuant to the United States Sentencing Guidelines:

The defendant was a part of a large-scale international sex trafficking organization that conspired to make money, between at least 2009 and 2016, by arranging for Thai women (the "victims") to travel from Thailand to the United States, to engage in innumerable commercial sex acts. Once in the United States, the victims would travel to various states, including Minnesota, to stay in apartments, houses and/or hotels where they would be required to perform commercial sex acts. The victims performed these sex acts to work off a "bondage debt." When members of the conspiracy in Thailand recruited the victims, who were typically from impoverished backgrounds, to travel to the United States, the victims were required to enter into a debt bondage contract to pay for their visas and travel. The bondage debt was typically between $40,000 and $60,000 and far exceeded the actual expenses incurred by the trafficker.

The defendant's involvement ranged from 2012 through 2015. The defendant began as a customer of the organization in Minnesota. The defendant was then recruited by the organization to work as a "runner" or "driver" for the organization in Minnesota. As a "runner," it was the defendant's role to transport the victims of the organization to and from the Minneapolis/St. Paul Airport, to the various houses of prostitution in Minnesota (both hotels and apartments), to and from the bank, and to escort the victims to the store when they would need to obtain items to further facilitate the commercial sex activities (notably, to buy condoms and lubricant).

The defendant also procured and maintained houses of prostitution for the criminal organization. For example, the defendant rented hotel rooms for the organization in his name and was later reimbursed the cost of the hotel room by the trafficking organization. Similarly, the defendant facilitated paying rent on behalf of the organization for an apartment in Bloomington, Minnesota that the organization used as a house of prostitution. While the Bloomington apartment was rented in co-defendant Todd Vassey's name, the defendant would take cash acquired from commercial sex acts, obtain a cashier's check in Vassey's name, and pay the rent.

The defendant transported numerous victims of the organization in Minnesota. The defendant specifically recalls transporting at least fifteen to twenty different women. Members of the conspiracy would alert the defendant as to the arrival of the victims at the airport and the victims would have the defendant's phone number to call upon their arrival if necessary. The victims would stay in Minnesota for between two and four weeks at a time and would then be sent to other cities across the United States.

The defendant's transportation of victims included the transportation of Victim 2, as identified in Count 5 of the indictment. Specifically, on or about December 3, 2013, the defendant picked Victim 2 up at the Minneapolis/St. Paul Airport and drove Victim 2 to one of the houses of prostitution to engage in commercial sex acts for the benefit of the organization.

The defendant was aware that the victims owed the bondage debt to the criminal organization and that they were required to work for the criminal organization by engaging in commercial sex acts until they paid off their bondage debt. The defendant understood that the victims were advertised on backpage.com for commercial sex acts in Minnesota and that the victims worked all day long engaging in numerous sex acts for the financial benefit of the criminal organization.

The defendant also assisted the criminal organization in engaging in money laundering activities. Specifically, the defendant would transport the victims to the bank where, at the direction of the criminal organization, the victims would deposit the cash proceeds from the commercial sex acts into various bank accounts controlled by the criminal organization. As the victims often had limited English skills, the defendant would often count the cash and assist in filling out the deposit slips.

The defendant knew that the property involved in these financial transactions represented the proceeds of unlawful activity and that the transactions were designed in whole and in part to conceal or disguise the nature, source, ownership and control of the proceeds of the specified unlawful activity. This included money from the commercial sex acts performed by the victims, which paid off the victims' "tax" or bondage debt to the criminal organization. The defendant recalls as part of the conspiracy facilitating the laundering of proceeds from commercial sex acts and to conceal such proceeds for upwards of 20 victims.

3. **Waiver of Pretrial Motions**. The defendant understands and agrees that the defendant has certain rights to file pre-trial motions in this case. As part of this plea agreement, and based upon the concessions of the United States within this plea agreement, the defendant knowingly, willingly, and voluntarily gives up the right to file pre-trial motions in this case.

4. **Statutory Penalties**. The defendant understands that Count 5 of the Indictment (Transportation to Engage in Prostitution, in violation of Title 18, United States Code, Section 2421) carries the following maximum statutory penalties:

a. a maximum of 10 years in prison;

b. a supervised release term of at least 5 years up to life;

c. a maximum fine of $250,000;

d. $5,000 to the Domestic Trafficking Victims' Fund;

e. mandatory restitution in an amount to be determined by the Court; and

f. a mandatory special assessment of $100.

The defendant understands that Count 6 of the Indictment (Conspiracy to Engage in Money Laundering, in violation of Title 18, United States Code, Section 1956(h)) carries the following maximum statutory penalties:

a. a maximum of 20 years in prison;

b. a maximum supervised release term of 5 years;

c. a maximum fine of $500,000 or twice the pecuniary loss;

d. mandatory restitution in an amount to be determined by the Court; and

e. a mandatory special assessment of $100.

5. **Revocation of Supervised Release**. The defendant understands that if he were to violate any condition of supervised release, the defendant could be sentenced to an additional term of imprisonment up to the length of the original supervised release term, subject to the statutory maximums set forth in 18 U.S.C. § 3583.

6. **Guidelines Calculations**. The parties acknowledge that the defendant will be sentenced in accordance with 18 U.S.C. § 3551, *et seq.*

Nothing in this plea agreement should be construed to limit the parties from presenting any and all relevant evidence to the Court at sentencing. The parties also acknowledge that the Court will consider the United States Sentencing Guidelines in determining the appropriate sentence and stipulate to the following guidelines calculations:

COUNT 5: Transportation To Engage in Prostitution

a. Base Offense Level. The parties agree that the base offense level is **14**. U.S.S.G. § 2G1.1(a)(2).

b. Specific Offense Characteristics. The parties agree that the offense level should be increased by **4** levels because the offense involved fraud or coercion. U.S.S.G. § 2G1.1(b)(1). The parties agree that no other specific offense characteristics apply.

c. Chapter 3 Adjustments. The parties agree that the offense level should be increased by **5** levels as the offense involved more than five victims where the conduct for each victim was equally serious to the offense of conviction. U.S.S.G. § 2G1.1(d); U.S.S.G. § 3D1.4. The parties agree that the offense level should be increased by **2** levels as the defendant knew or should have known that a victim of the offense was a vulnerable victim. U.S.S.G. § 3A1.1(b)(1). The parties agree that the offense level should be increased by an additional **2** levels as the offense involved a large number of vulnerable victims. U.S.S.G. § 3A1.1(b)(2). The parties agree that no other Chapter 3 adjustments apply.

COUNT 6: Conspiracy To Commit Money Laundering

a. Guidelines Range. The parties agree that the base offense level is **18**, which is the offense level for the underlying offense the defendant committed from which the laundered funds were derived. U.S.S.G. § 2S1.1(a)(1).

b. Specific Offense Characteristics. The parties agree that the offense level should be increased by **2** levels because the defendant was convicted under Title 18, United States Code, Section 1956. U.S.S.G. § 2S1.1(b)(2)(B). While the parties acknowledge that the offense involved sophisticated laundering under U.S.S.G. § 2S1.1(b)(3), the parties agree the **2**-level enhancement should not be applied to the defendant because his role in the laundering was not sophisticated or directly tied to the sophisticated laundering means. The parties agree that no other specific offense characteristics apply.

c. Chapter 3 Adjustments. The parties agree other than acceptance of responsibility, no other Chapter 3 adjustments apply to this Count.

Grouping and Other Guidelines Considerations

d. Acceptance of Responsibility. The government agrees to recommend that the defendant receive a **2**-level reduction for acceptance of responsibility pursuant to U.S.S.G. § 3E1.1(a). As the defendant has timely notified the government of his intention to enter a plea of guilty, the government agrees to recommend that the defendant receive an additional **1**-level reduction pursuant to U.S.S.G. § 3E1.1(b). Whether these reductions will be imposed shall be determined by the Court in its discretion. However, the defendant understands and agrees that the government's recommendations are conditioned upon the following: (1) the defendant testifies truthfully during the change of plea and sentencing hearings; (2) the defendant provides full, complete and truthful information to the United States Probation Office in the pre-sentence investigation; and (3) the defendant engages in no conduct inconsistent with acceptance of responsibility before the time of sentencing. The resulting offense level is **28**.

e. Grouping. Because there are one-and-one-half units, one level is added to the base offense level. U.S.S.G. § 3D1.4. The adjusted offense level is **25**.

f. Criminal History Category. The parties believe that, at the time of sentencing, the defendant will fall into Criminal History Category I. U.S.S.G. § 4A1.1. This does not constitute a stipulation, but a belief based on an assessment of the information currently known. The defendant's actual criminal history and related status will be determined by the Court based on the information presented in the Presentence Report and by the parties at the time of sentencing. The defendant understands that if the presentence investigation reveals any prior adult or juvenile sentence which should be included within his criminal history under the U.S. Sentencing Guidelines, the defendant will be sentenced based on his true criminal history category, and he will not be permitted to withdraw from this Plea Agreement. U.S.S.G. § 4A1.1.

g. Guidelines Range. If the adjusted offense level is **25**, and the criminal history category is **I**, the Sentencing Guidelines range is **57** to **71** months of imprisonment.

h. Fine Range. If the adjusted offense level is **25**, the Sentencing Guidelines fine range is $20,000 to $200,000. U.S.S.G. § 5E1.2.

i. Supervised Release. The Sentencing Guidelines require a term of supervised release of at least five years up to lifetime supervision. U.S.S.G. § 5D1.2(c).

j. Sentencing Recommendation and Departures. The parties reserve the right to make a motion for departure(s) from the applicable Guidelines range and to oppose any such motion made by the opposing party. The parties reserve the right to argue for a sentence outside the applicable Guidelines range.

7. **Discretion of the Court.** The foregoing stipulations are binding on the parties, but do not bind the Court. The parties understand that the

Sentencing Guidelines are advisory and their application is a matter that falls solely within the Court's discretion. The Court may make its own determination regarding the applicable Guidelines factors and the applicable criminal history category. The Court may also depart from the applicable Guidelines range. If the Court determines that the applicable guideline calculations or the defendant's criminal history category is different from that stated above, the parties may not withdraw from this agreement, and the defendant will be sentenced pursuant to the Court's determinations.

8. **Special Assessment**. The Guidelines require payment of a special assessment in the amount of $100 for each felony count of which the defendant is convicted, pursuant to U.S.S.G. § 5E1.3. The defendant agrees that the $200 special assessment is due and payable at the time of sentencing.

9. **Restitution and Disclosure of Assets.** The defendant understands and agrees that the Mandatory Victim Restitution Act, Title 18, United States Code, Section 3663A, applies and that the Court is required to order the defendant to make restitution to the victims of his crimes. The defendant agrees not to oppose the Court's entry of an order that he pay restitution to the United States. The defendant will fully and completely disclose to the United States Attorney's Office the existence and location of any assets in which the defendant has any right, title, or interest. The defendant agrees to assist the United States in identifying, locating, returning, and

transferring assets for use in payment of restitution and fines ordered by the Court. The defendant agrees to complete a financial statement fully and truthfully before the date of sentencing.

10. **Forfeiture.** The defendant agrees to forfeit to the United States all property, real or personal, used or intended to be used to commit or facilitate the commission of Count 5 of the Indictment, and any property constituting or derived from any proceeds obtained, directly or indirectly, as a result of that offense. The defendant also agrees to forfeit any property, real or personal, involved in the commission of Count 6 of the Indictment and any property traceable thereto.

The defendant consents to entry of a money judgment forfeiture in the amount of $50,000.

The government reserves its right to seek the direct forfeiture of specific assets and substitute property pursuant to 21 U.S.C. § 853(p).

The defendant waives any defenses or challenges to this forfeiture sanction arising under the Constitution or Fed. R. Crim. P. 32.2 and agrees that he will not contest or challenge in any manner (including direct appeal, habeas corpus, or any other means) such forfeiture on any grounds. The defendant also waives his right to file a petition in any ancillary proceeding for property forfeited from any other defendant in this matter.

11. **Waiver of Trial Right**. The defendant understands that he has the right to persist in a plea of not guilty to the charges against him, and if he does, he would have the right to a public and speedy trial. The defendant understands that by pleading guilty he surrenders this right.

12. **Waivers of Appeal and Collateral Attack**. The defendant understands that 18 U.S.C. § 3742 affords the defendant the right to appeal the sentence imposed in this case. Acknowledging this right, and in exchange for the concessions made by the United States in this plea agreement, the defendant hereby waives all rights conferred by 18 U.S.C. § 3742 to appeal the defendant's sentence. In addition, the defendant expressly waives the right to petition under 28 U.S.C. § 2255. However, the waivers noted above shall not apply to a post-conviction collateral attack or direct appeal based on a claim of ineffective assistance of counsel. The defendant has discussed these rights with the defendant's attorney. The defendant understands the rights being waived, and the defendant waives these rights knowingly, intelligently, and voluntarily.

13. **FOIA Requests.** The defendant waives all rights to obtain, directly or through others, information about the investigation and prosecution of this case under the Freedom of Information Act and the Privacy Act of 1974, 5 U.S.C. §§ 552, 552A.

14. **Sex Offender Registration**. Defendant understands that by pleading guilty, defendant will likely be required to register as a sex offender upon his release from prison as a condition of his supervised release pursuant to 18 U.S.C. § 3583(d). Defendant also understands that independent of supervised release, he may be subject to federal and state sex offender registration requirements, and that those requirements may apply throughout his life.

15. **Complete Agreement**. This, along with any agreement signed by the parties before entry of the plea, is the entire agreement and understanding between the United States and the defendant.

GREGORY G. BROOKER
Assistant United States Attorney

Date: March 29, 2017

BY: [signature]
MELINDA A. WILLIAMS
JULIE E. ALLYN
LAURA M. PROVINZINO
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Date: March 29, 2017

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JOHN ZBARACKI
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Date: March 29, 2017

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